

**REMARKS**

This Amendment is filed in response to the Office Action mailed May 17, 2007.  
All objections and rejections are respectfully traversed.

Claims 20-51 are now pending in the case.

Claims 20, 24, 28, 30, 34 and 36 have been amended.

New claims 44-51 have been added.

***Unexamined Claims***

The Applicant notes that claims 42 and 43 that were added in the Amendment filed April 25, 2007 appear to have been overlooked by the USPTO and have not been examined. Specifically, the Office Action Summary incorrectly indicates that only claims 20-40 are pending in the case and made no mention of claims 42 and 43. Further, the text of the Office Action made no mention of claims 42 and 43, neither rejecting nor allowing the claims. Accordingly, the Applicant respectfully requests that these claims be considered and either a notice of allowance or a Non-Final Office Action be issued. The Applicant respectfully suggests that a Final Office Action would be inappropriate in this circumstance as these claims have not received an action on their merits, and thus the requirements for a Final Office Action as set forth in MPEP §706.07(a) are not met.

***Status of Claim 34***

The Applicant notes that claim 34 is both indicated as rejected and allowed in the Office Action. Accordingly, the Applicant respectfully requests clarification.

The Applicant further notes that this may be a remnant of a claim numbering issue, that was discussed in the last Amendment. The Applicant respectfully directs the Examiner's attention to the last Amendment for more discussion regarding the claim numbering issue.

***Claim Rejections - 35 U.S.C. §102***

At paragraphs 2-3 of the Office Action, claims 20-23, 25, 28, 29, 31, 33, 35, 37 and 40 were rejected under 35 U.S.C. §102 as anticipated by Gai et al., U.S. Patent No. 6,031,194 (hereinafter Gai).

The Applicant notes that Gai was filed on Dec. 24, 1997, approximately 11 month before the Applicant's priority date. While the Applicant does not admit Gai has actual prior art status, even assuming arguendo Gai is prior art, the reference would not anticipate the Applicant's claims as explained below.

The Applicant's claim 20, representative in part of the other rejected claims, sets forth:

20. A computer readable medium containing executable program instructions for use by an intermediate network device having a plurality of ports for receiving and forwarding network messages, the executable program instructions comprising program instructions for:

***configuring one or more ports as access ports, wherein an access port is a port that does not provide connectivity to other portions of a computer network, but instead connects to a Local Area Network (LAN), a server or an end station;***

***configuring one or more access ports as rapid forwarding ports;***

identifying all ports that have been configured as access ports with rapid forwarding; and

***upon initialization of the device, placing each identified access port with rapid forwarding directly to a forwarding spanning tree port state, without transitioning such identified ports between any intermediary spanning tree port states,*** so that network messages may be received and forwarded by such identified ports immediately.

Gai discloses a method and apparatus for rapidly reconfiguring a computer network. *See* abstract. "Upon start-up, the ports of each switch 230, such as switch 214, are initially placed in the listening state and spanning tree engine 235 begins formulating and transmitting bridge protocol data units (BPDU) frames." *See* col. 10, lines 1-4 (emphasis added to quotation). Eventually, "the spanning tree algorithm will converge." *See*

col. 10, lines 22-25. At that point, “only one port (local or trunk) that represents a path from the access switch to the root... will be forwarding. All other ports (local or trunk) that represent paths from the access switch to the root will be blocked” (emphasis added). *see* col. 11, lines 8-15. Upon failure of the current root port...the access switch [is caused] to immediately transition one of its blocked trunk ports to the forwarding state” (emphasis added). *See* col. 5, lines 43-44. Gai’s Fig. 3D shows that “[i]n response to the detection of port number three (the root port), indicated at block 342, rapid reconfiguration entity 234 at switch 214 selects a backup port to become the new root port, as shown at box 344...Rapid reconfiguration entity 234, at block 346, then directs the spanning tree state machine engine 236 to immediately transition the selected back-up port (e.g., port number four) to the forwarding state. That is, the spanning tree engine 236 does not transition the selected back-up port between listening or learning states” (emphasis added). *See* col. 12 lines 15-37.

The Applicant respectfully urges that Gai does not teach or suggest the Applicant’s claimed “*configuring one or more ports as access ports, wherein an access port is a port that does not provide connectivity to other portions of a computer network, but instead connects to a Local Area Network (LAN), a server or an end station*” and “*configuring one or more access ports as rapid forwarding ports*” and “*upon initialization of the device, placing each identified access port with rapid forwarding directly to a forwarding spanning tree port state, without transitioning such identified ports between any intermediary spanning tree port states.*”

While the Applicant places an “access port” with “rapid forwarding” directly to the forwarding spanning tree port state, without transitioning between any intermediary spanning tree port states, Gai discusses transitioning different types of ports (i.e., back-up ports) into the forwarding state in various different circumstances. These other types of ports (i.e., back-up ports) may not fairly be interpreted as access ports. The Applicant makes clear the access port is *a port that does not provide connectivity to other portions of a computer network, but instead connects to a Local Area Network (LAN), a*

*server or an end station.* The backup-ports that Gia discusses are ports that may transition to become the root port, and thus, by definition, offer connectivity to the root bridge. *See* Gai col. 12 lines 15-37. As such, they clearly provide connectivity to “other portions of a computer network” and are different from the types of ports the Applicant is concerned with. Accordingly, as Gai does not teach or suggest *placing each identified access port with rapid forwarding directly to a forwarding spanning tree port state, without transitioning such identified ports between any intermediary spanning tree port states.*


For at least the above reasons, the Applicant respectfully urges that Gai is legally insufficient to anticipate the present claims under 35 U.S.C. §102.

Should the Examiner believe telephonic contact would be desirable in the disposition of this case, the Applicant encourages the Examiner to contact the Applicant’s attorney at 617-951-2500 at any time.

All the independent claims are believed to be in condition for allowance and therefore all the dependent claims that depend there from are believed to be in condition for allowance. The Applicant respectfully solicits favorable action.

Please charge any additional fee occasioned by this paper to our Deposit Account No. 03-1237.

Respectfully submitted,

  
James A. Blanchette  
Reg. No. 51,477  
CESARI AND MCKENNA, LLP  
88 Black Falcon Avenue  
Boston, MA 02210-2414  
(617) 951-2500